1943.

File No. Motor H/43
Legal Dept

B/ BRANCH

Subject:—

Rules and Notifications under the Motor Vehicles Act 1939

P 10/E

File No. Motor H/43

Gen. 194 e.

49 15

Office of the R.L.A.

A revised draft Notification is appended.

2. As the appellate authorities under sub-rules (b) and (c) of rule 7 are distinct entities, it is necessary to -- constitute them apparately. Sub-rule (c) has therefore been ~~constitute them separately. sub-rule (c) has therefore been~~ revised accordingly. It is presumed that in case of disagreement between the members of the Appeal Committee under sub-rule (c) the same procedure as under sub-rule (b) is to apply. The revised draft provides accordingly

Id/-

P.N.M.

dt.

27/1/

Remembrancer of Legal Affairs.

U.R. to H.D. No. 700 , dated the 28th January 1943.

VVK. 17/7/56/

SC.

18/7

Office of the R.L.A.

Rule 88(9) of the Bombay Motor Vehicles Rules , 1940 provides that if at any time a conductor's licence is lost or destroyed or becomes illegible or the photograph attached thereto ceases in the opinion of the authority by which the licence was granted, to be a reasonable likeness of the holder, that authority shall proceed as if the conductor's licence were a driving licence. Under this rule therefore the authority has to proceed as if the conductor's licence were a driver's licence.The procedure for the issue of a duplicate of a driver's licence is prescribed in rules 11 to 13. Under these rules, the fee for the issue of the duplicate of a licence is Rs. 5/- . Consequently the duplicate of a conductor's licence would be issued only on payment of Rs. 5/- .To achieve the object in view, it would be necessary to amend sub-rule (9) of rule 88 and not sub-rule (7) as it only provides for the fee for a conductor's licence and its renewal. The requisite draft notification, in this behalf , is sent herewith.

Id/-

P.N.M.

8/5/

Remembrancer of Legal Affairs.

U.R.to G.D. No. 3412, dated the 10th May 1943.

VVK. 17/7/56/

5C.

Office of the R.L.A.

Since it it not intended to confine the scope of the proposed rules to omnibuses plied by the B.E.S.T. Company alone, it will be desirable to insert the proposed provisions as a separate rule 85A in the Bombay Motor Vehicles Rules, 1940 making it clear therein that the provision of that rule are in addition to those contained inrule 85. In that case the company can print rule 85 and new rule 85A together and affix a copy thereof in theomnibus for the information of passengers as provided in sub-rule 17 of rule 85A. The requisite draft notifi cation in this behalf is sent herewith. The following remarks are made:

2. The definition of 'motor omnibus' purports to include contract carriages also. This would make the rule regulate the conduct of passengers in contract carriages as well. Attention in this respect is invited to the marginal remarks of D.S.H.D. against para- 8 of the office note on page 70 supra and to the remarks on the said para 8 of the Regional Transport Authority on page 73 supra. It is therefore presumed that it is not intended to apply the rules to contract carriages. Reference to contract carriages has therefore been deleted in therevised draft.

3. The definition of"authorised person " in F.D. draft Rule . 2(c).- The expression occurs only in H.D. draft rules 9,15,16 and 17. H.D. draft rule 15 has been omitted for the reasons in para 12. Draft rule 16 permits authorised persons to remove a passenger forcibly etc. and H.D. draft rule 17 permits an authorised person to require a passenger to give his correct name and address. This is inconsistent with clause (a) of section 67(2) of Motor

Vehicles Act, 1939 , which permits of a rule authorising the removal of any person infringing the rulesnonly by the driver or conductor of the Vehicle or on the request of the driver of conducter , or any passenger , by any police officer and with clause (b) of section 67(2) which permits of a rule being made requiring a passenger reasonably suspected by the driver or conductor of contravening the rules to give his name and address to a police officer or to the driver or conductor on demand .The only H.D. rule therefore which refers appropriately to the expression "authorised perosn " is rule 9, which corresponds to sub-rule (7) of revised rule 85A. It is not necessary for the purpose of this rule alone to define the expression "authorised person ". The Definition has , therefore, been omitted .Sub-rule (7 of rule 85A has been made clear on the point.

4. Attention is intited to para . 9 of the H.D.draft on page 70 ante and the remarks of the Provincial Transport Authority on it on page 73 ante. Since the rules do not seek to provide for season tickets, it is not necessary to include them in thedefinition of 'tkcket'. Clause (c) of sub-rule (1) of new rule 85A in therevised draft has therefore been revised accordingly.

5. H.D.draft rule 4 corresponds to sub-rule (3) of revised draft rule 85A . These provision that a person shall not enter or leave by an enterance or exit which is barred is unece - ssary and has been deleted.

6. H.D.draft rule 6 has been amplifeid into sub-rule (5) of revised draft rule 85A on the lines of clause (a) of the draft order supplied to H.D. with R.L.A.'s opinion No. 4265 dated 17th June 1943. Where the ominibus is full, the person who enters it knowing it to be full need only be penalised, but not the passengers who are already inside . The words " or remain in are therefore omitted.

7. H.D. draft rule 7 corresponds to sub-rule (6) of revised draft rule 85A. The provision in H.D. draft rule 7 "or otherwose interferings with the conduct ord driving of the motor omnibus" overlaps the provision in clause (ix) of rule 85 and has therefore been omitted.

8. H.D. draft rule 8 refers to passengers obstructing or impending any omnibus. This will be covered by clauses (i), (vii) and (ix) of rule 85 and sub-rule (6) of the proposed new rule 85A. The draft rule is therefore omitted.

9. H.D, draft rule 9 corresponds to sub-rule (7) of revised draft rule 85A. The provision has been restricted to obstructing an employee of the Company in the execution of his duties on the omnibus on which the passenger is travelling. It is presumed that this is the inention.

10. H.D. draft rule 11 corresponds to sub-rule (9) of revised rule 85A . Although it willnot be covered by section 67 it will fall nder section 68 which has been mentioned in the preamble.

11. H.D. draft rule 13 corresponds to sub-rule (11) of revised draft rule 85A. Although it is not covered by section 67 it will fall under section 68 which has been mentioned in the preamble-

12. Rule 15 of the H.D. draft inter alia provides that a ticaket torn, altered or defaced shall be void and the passenger shall pay a fresh fare to the conductor etc. In view of the provision contained in clause (xi) of rule 85 the draft rule has been deleted.

13. H.D. draft rule 16 corresponds to sub-rule (13) of revised draft rule 85A . Clauses (ii) and (iii) and clause (v) - except in so far as it refers to 'birds' overlap with the provisions of clauses (xiii), (xvii)and (xiv), respectively., of rule 85. Clauses (ii) and (iii) and clasue (v) in so far

as it relate to any dog or animal &, have therefore, been deleted from the revised draft.

14. A new sub-rule (16) providing that the provisions of this rule shall apply in addition to those contained in rule 85 has been inserted for clarifying the intention

15. H.D.draft rule 19 corresponds to sub-rule (17) of revised draft rule 85A. Although it will not be covered by section 67 it will fall under section 68 which has been mentioned in the preamble. The H.D. draft rule provides that the copy of the rules shall be in English and in the principal local languages.These latter in the City of Bombay are Marathi, Gujarathi and Urdu and sub.rule (17) of revised draft rule 85A, therefore, spefifies these languages. H.D. may consider if Kannada should also be added to these languages.

Id/-

P.N.M.

dt/-

14/8/

Remembrancer of Legal Affairs.

U.R. to H.D. No. 5639 , dated the 20th August 1943.

VVK. 17/7/56/

5C.

Office of the R.L.A.

It will be seen from the letter of Provincial Transport Authority at page 1 ante that the intention was to validate time-barred refund orders for a further period of 15 days. To give effect to this intention it was decided to amend rule 14 of the Bombay Motor Vehicles Tax Rules, 1940 and a draft notification supplied by the R.L.A. for the purpose was published inviting objections and suggestions from the public. From the letter of the Deputy Commissioner of Police, Motor Vehicles and Taxation at. page 23 ante it appears that the intention now is to refund the amount of tax paid even after the expiry of 15 days from the date of issue of the refund certificate byt within 15 days of renewal if at any time thereafter, the certificate is renewed . If H.D. decides to give effect to this new intention, it would be necessary to amend rule 14 differently. A draft notification for this purpose is sent herewith. H.D. should verify whether the rule as proposed to be now amended would answer their purposes

2. As the proposed amendment of the rule is substantial, it would be necessary to republish the notification for inviting objections and suggestions.

Id/-

P.M.M.

28/8/

Remembrancer of Legal Affairs.

U.R. to H.D. No. 5272 , dated the 31st August 1943.

VVK . 17/7/56/

Office of the RL.A.

Sub-rule (2) of rule 185P after it is amended as proposed would read as under -

" A motor vehicle fitted with a producer before20th June 1943 shall not be used as so fitted beyond two months from the date on which this rule comes into force ". Rule 185P has come into force on the 27th April 1943. and therefore under the rule as it would stand amotor vehicle could not be used beyond 27th June 1943 i.e. beyond two months from the date rule 185P came into force unless it was submitted for inspection and test. It would therefore appear that the use of a motor vehicle fitted with a producer before 20-6-43 and not submitted for inspection and test till 27th June 1943 would be unauthorized beyond the latter date . Since the contravention of a rule is punishable under section 112 of the Motor vehicle Act, 1939 , in order to avoid the anomaly that would be created by the proposed amendment, it would be necessary to amend sub-rule (2' of rule 185P by substituting the date on which the proposed amendment would come into force for the words " dated on which this rule comes into force

2. As regards the proposal to provide for the payment of travelling expenses incurred by the inspectors who are required to visit premises of the manufacturer of producer gas plan s, rules 185-O,185-R and 185-P , read with rule 185-R, are relatable to section 41(2)(f) of the Motor Vehicles Act, 1939 , and therefore the levy of - higher fees including charges for the travelling allowance of inspectors when they visit the premises of the manufacturer for the purpose of inspection and test

will be covered by the said section. As regards rule 185-F dealing with inspection and test of gas producers, the rule also will be covered by section 70(1) , read with section 41(2(f) , and section 41(1) of the Act, the gas producer being deemed to be an accessory of the motor vehicles There would be accordingly no objection to levying higher fees as proposed for inspection and test of producers at the manufacturer's premises

Id/-

P.N.M.

25/10

Remembrancer of Legal Affairs.

U.R. to H.D. No. 7172 , dated the 27th October 1943.

VVK. 17/7/86/

50.

Office of the R.I.A.

H.D's proposal to insert sub-rule (5A) after sub-rule (5) of rule 72 of the Motor Vehicles Rules is not in order . Rule 72 refers to a permit which has parts A and B, while a temporary permit which is granted in form D.Tem. has no parts, (See rule 54(2)). The insertion of the proposed provision in rule 72 as it stands would not therefore be appropriate . It would be necessary for H.D. to amend the rule suitably so as to provide for the procedure to be followed or for obtaining duplicate temporary permits and then insert a provision prescribing a fee for the grant of a duplicate temporary permit.

2. Clause (c) of section 21(2) of the Motor Vehicles Act gives power to the Provincial Government to make rules providing inter alia for the issue of duplicate licenses to replace licenses lost, destroyed or mutilated and the issue of emporary licenses to persons receiving instruction in draving and the fees to be charged therefor. A license has been defined in section 2(11) of the Act as amending a document issued by a competent authority authorising the person spefified therein to dirve a motor vehicle or a motor vehicle of any specified class or description. A lerner's license is issued in form L.Lr. annexed to the Bombay Motor Vehicles Rules, 1940.The license is issued by a comptent authority and authorizes the person specified therein to dirve a motor vehicle of a specified desctiption. It is accordingly a license within the meaning of section 21(2)(c) of réad with section 2(11) of the Act and that being so, it would be competent for the Government to make a rule under section 21(2)(c) for the issue of a duplicate learner's license and the charging of fees therefor.

Id/- P.N.M. dt/- 13/11/

Remembrancer of Legal Affairs.

VVK. 17/7/36/ 50. U.R. to H.D. No. 8427 , dated the 15th November 1943.